

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Implementation of Competitive Bidding Rules)	WT Docket No. 01-32
To License Certain Rural Service Areas)	
)	RM-8897
)	

To: The Commission

COMMENTS OF CINGULAR WIRELESS LLC

Cingular Wireless LLC (“Cingular”) hereby submits these comments in response to the *Notice of Proposed Rulemaking* in the above-referenced proceeding.¹ Cingular supports the Commission’s proposal to implement competitive bidding rules to license the Block A cellular frequencies in four Rural Service Areas (“RSAs”).² As discussed more fully below, Cingular requests only minor clarifications to improve the transition to permanent licensing and the post-auction licensing process. Specifically, the Commission should clarify that interim operators can continue to provide service in portions of the market on a temporary basis until the auction winner is prepared to initiate service in that particular area. In addition, the Commission should clarify that in order for petitions to deny a long-form application to be timely filed, they must be hand delivered to both the Commission and its copy contractor.

¹ *Implementation of Competitive Bidding Rules to License Certain Rural Service Areas*, FCC 01-36 (rel. Feb. 12, 2001), 66 Fed. Reg. 14104 (rel. Mar. 9, 2001) (“*NPRM*”).

² The four RSAs are the Arkansas 9 - Polk RSA (Market No. 332A); North Dakota 3 - Barnes RSA (Market No. 582A); Puerto Rico 5 - Ceiba RSA (Market No. 727A); and the Texas 21- Chambers RSA (Market No. 672A).

Cingular supports the Commission’s proposal to allow all eligible applicants, including current holders of licenses for interim operating authority (“IOA”), to apply for licenses in the four RSAs.³ This will ensure that licenses are awarded to applicants who value them the most, as recognized by the Commission.⁴

Cingular requests clarification, however, on the process for transferring operations in the event that the IOA licensee does not obtain the RSA license for its market. In the *NPRM*, the Commission stated that IOA licenses are conditioned so that interim operations in the market must cease “on the date of initiation of permanent service or within 30 days of written notice by the permanent permittee to the interim operator of the day and time that it intends to initiate service, whichever date occurs later.”⁵ The Commission proposes to allow IOA holders to continue providing service on a temporary basis “until the auction winner provides the required notice and is prepared to commence service.”⁶ Cingular agrees with the proposal but requests a clarification that IOA holders be allowed to continue providing service in a particular area of the market until the new licensee provides notice and is prepared to commence service in that area. This will allow IOA licensees to continue to provide service in portions of the market where the new licensee is not yet prepared to commence service. Such a clarification will further the Commis-

³ *NPRM* at ¶¶ 7-8. Through its subsidiaries, Cingular provides cellular radiotelephone service to the public on the Block A frequencies in the Arkansas 9 - Polk RSA and the Texas 21- Chambers RSA pursuant to IOA under call signs KNKP970 and KNKP971, respectively. *See also NPRM* at ¶ 9 n.20 (listing entities that hold IOAs in the cellular markets). In addition, the Commission has consented to the transfer of control of two additional IOA licensees to Cingular that provide cellular service in the Puerto Rico 5 - Ceiba RSA. The transfer, however, has not yet been consummated.

⁴ *Id.* at ¶ 7.

⁵ *Id.* at ¶ 9 n.21.

⁶ *Id.*

sion's goal of transitioning service to the public without unnecessary interruption.⁷ Otherwise, cellular subscribers in much of the market may have a disruption in service upon the construction and operation of one cell site by the new licensee that does not serve the entire area covered by the IOA licensee.

Cingular supports the proposal to conduct the auction consistent with the Commission's general bidding rules contained in Part 1, Subpart Q, and the proposal to delegate to the Wireless Telecommunications Bureau ("WTB") the selection of the appropriate competitive bidding design.⁸ The bidding design ultimately selected, however, should not include combinatorial bidding. Such a design is inappropriate in this instance, considering that there are no "synergies" among the four rural cellular markets that are geographically dispersed throughout the United States and its territories.⁹

Finally, Cingular requests clarification of the post-auction licensing process. The Commission should clarify that in order for petitions to deny a long-form application to be timely filed, they must be hand delivered to *both* the Commission and its copy contractor, International Transcription Service ("ITS"). Recently, in connection with the C and F Block Broadband PCS Auction (Auction No. 35), winning bidders were uncertain as to the deadline for responding to petitions to deny. The Commission stated in a public notice that oppositions to petitions to deny were due five days after the filing date for petitions, which were to have been filed with the Commission as well as ITS.¹⁰ Many petitioners, however, either

⁷ *Id.*

⁸ *Id.* at ¶ 12; 47 C.F.R. §§ 1.2101-1.2113.

⁹ *See, e.g., FCC Report to Congress on Spectrum Auctions*, WT Docket No. 97-150, *Report*, 13 FCC Rcd. 9601 (1997) ("Strong synergies exist . . . for example, when a large company's business plan is not viable unless it is awarded a nationwide service area.").

¹⁰ *See Public Notice*, "C and F Block Broadband Personal Communications Services (PCS) Auction, Applications Accepted for Filing, Auction Event No. 35, Pleading Cycle Established," Report No.

hand delivered their petitions to the Commission but not to ITS or sent their petitions to ITS by mail on the due date. As a consequence, winning bidders were unable to obtain copies of many of the petitions until several days after the filing deadline. Nevertheless, despite having only a couple of days to actually review and prepare oppositions to the petitions, winning bidders arguably remained bound by the five-day deadline.

To avoid this situation in the future, the Commission should clarify that petitions are not deemed filed with the FCC until hand delivered to both the Commission and ITS. If not hand delivered to both locations, then service should not be deemed proper. Alternatively, the Commission should clarify that if service is by mail, then respondents will have an additional three days to file an opposition in accordance with Section 1.4(h) of the Commission's rules irrespective of any deadline specified in the public notice announcing the acceptance of long-form applications.¹¹ Such a clarification will ensure that winning bidders have a fair opportunity to review and timely respond to petitions.

AUC-35, DA 01-520 (rel. Feb. 27, 2001). Section 1.2108 of the Commission's rules also states that the deadline for filing oppositions shall be at least five days from the filing date for the petitions. 47 C.F.R. §1.2108(c).

¹¹ 47 C.F.R. § 1.4(h).

CONCLUSION

For the reasons set forth above, Cingular supports with minor clarifications the Commission's proposal to implement competitive bidding for the licensing of four cellular RSAs.

Respectfully submitted,

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